

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEFFREY EUGENE HERBERT,

Defendant.

CR 22-133-BLG-DLC

ORDER

United States Magistrate Judge Timothy J. Cavan entered Findings and Recommendation in this matter on March 16, 2023. (Doc. 44.) Neither party objected and therefore they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Cavan recommends that this Court accept Defendant Jeffrey Eugene Herbert’s guilty plea after he appeared before him pursuant to Rule 11 of the

Federal Rules of Criminal Procedure, and entered a guilty plea to one count of production of child pornography, in violation of 18 U.S.C. § 2251(a) (Count 1), and one count of possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B) (Count 6), as set forth in the Superseding Indictment.

Reviewing for clear error, the Court finds none.

Accordingly, IT IS ORDERED that Judge Cavan's Findings and Recommendation (Doc. 44) is ADOPTED in full.

IT IS FURTHER ORDERED that Mr. Herbert's motion to change plea (Doc. 34) is GRANTED and Jeffrey Eugene Herbert is adjudged guilty as charged in Counts 1 and 6 of the Superseding Indictment.

DATED this 7th day of April, 2023.



Dana L. Christensen
District Judge
United States District Court